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THE FIFTY

'A humanitarian crisis': Why Alabama could lose control of its dangerous prisons

Alabama sends so many people to prison that the state can no longer safely house its inmates, consequences of a tough-on-crime mentality among politicians and the public that keeps aggressive sentencing laws on the books.

This whole article
support everything
I've been saying
in regards to Jeff Dunn
and Kay Ivey and
Lynn head conspired
to keep us in prison



A sign reads "HELP" in the window of an inmate cell at a correctional facility. | Kim Chandler/AP Photo

By **LIZ CRAMPTON**

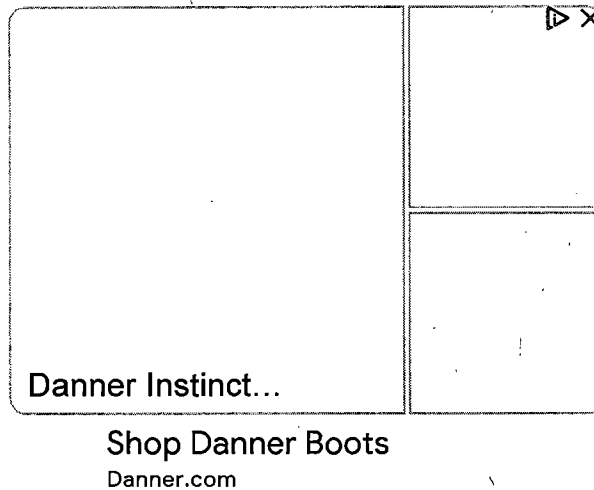
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MONTGOMERY, Ala. — Carl Brad Ward had never been more prepared for a parole hearing, not in the 30 years of a life sentence he had spent incarcerated in Alabama's prisons, which are among the most dangerous in the country.

For months, he had carefully constructed the file presented to the three-person state board with the power to decide his future. His daughter told the board about the more than 42 certificates and academic programs he completed, his participation in drug treatment programs and the 16 years he'd gone without a disciplinary citation. He had been accepted into a reentry program in Dallas and had the founder of the program fly out to testify on his behalf. Ward agreed to wear a GPS ankle monitor and never return to the state of Alabama.

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The 57-year-old even received personal recommendations from multiple prison officials, including a chaplain who said Ward “is in the top 1 percent of all the men I have worked with.”

But for all that, the board’s ultimate decision was predictable: Ward was denied, again, for the fifth time. He will remain incarcerated, like he has more than half his life, currently in St. Clair Correctional Facility, a 1,514-bed maximum security men's prison located less than an hour from Birmingham, Alabama.

Alabama sends so many people to prison that the state can no longer safely house its inmates, consequences of a tough-on-crime mentality among politicians and the public that keeps aggressive sentencing laws on the books. The end result: The Department of Justice concluded that the constitutional rights of prisoners were being violated every day, in every men’s prison the state runs.

The situation has been exacerbated by political fallout from a horrific crime in 2018 that has led to an explosion of parole denials, up more than 40 percent in the past four years.

Three weeks after Ward's hearing in September, Republican Gov. Kay Ivey — under intense pressure to avoid a federal takeover of the prisons — summoned state lawmakers to an emergency session to address the overcrowding problem. Their answer: Build more prisons and use federal stimulus money to do it.

The move ignited Democratic rage in Washington, but Republican lawmakers in Montgomery moved quickly to approve the \$1.3 billion proposal and adjourned their session. They killed a sentencing reform that briefly had bipartisan support, and they left Montgomery with the state still facing the federal threat.

As states across the country pursue criminal justice reforms in the aftermath of George Floyd's death, some conservative states are doubling down on law and order edicts. In direct response to the Black Lives Matter movement, Republican-led Florida passed an "anti-protest" law increasing penalties and imposing mandatory minimum sentences. Tennessee approved similar legislation.



Inmates sit in a treatment dorm at Staton Correctional Facility in Elmore, Ala., Wednesday, Sept. 4, 2019. | Kim Chandler/AP Photo

But Alabama is an outlier even among red states. Its inability to adequately address overcrowding, understaffing, rampant physical and sexual violence and drug use within its 13 prisons is considered one of the state's most pressing issues. Alabama's legal troubles offer a warning to other states struggling to oversee their own prison systems, revealing what can go wrong when a state lacks the political will to maintain safe prisons or enact criminal justice reforms before it's too late.

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Ivey has a high approval rating but may still encounter a serious Republican primary challenger in 2022, especially if the Justice Department does pursue a federal takeover in the next year.

"It's the anti-example," said Adam Gelb, president and CEO of the Council on Criminal Justice, a nonpartisan research institution. "It's a state that has chased itself around in circles for the past two decades, and there have been some modest improvements, but the system remains terribly overcrowded and filled with people who in many cases should never have come through the front doors."

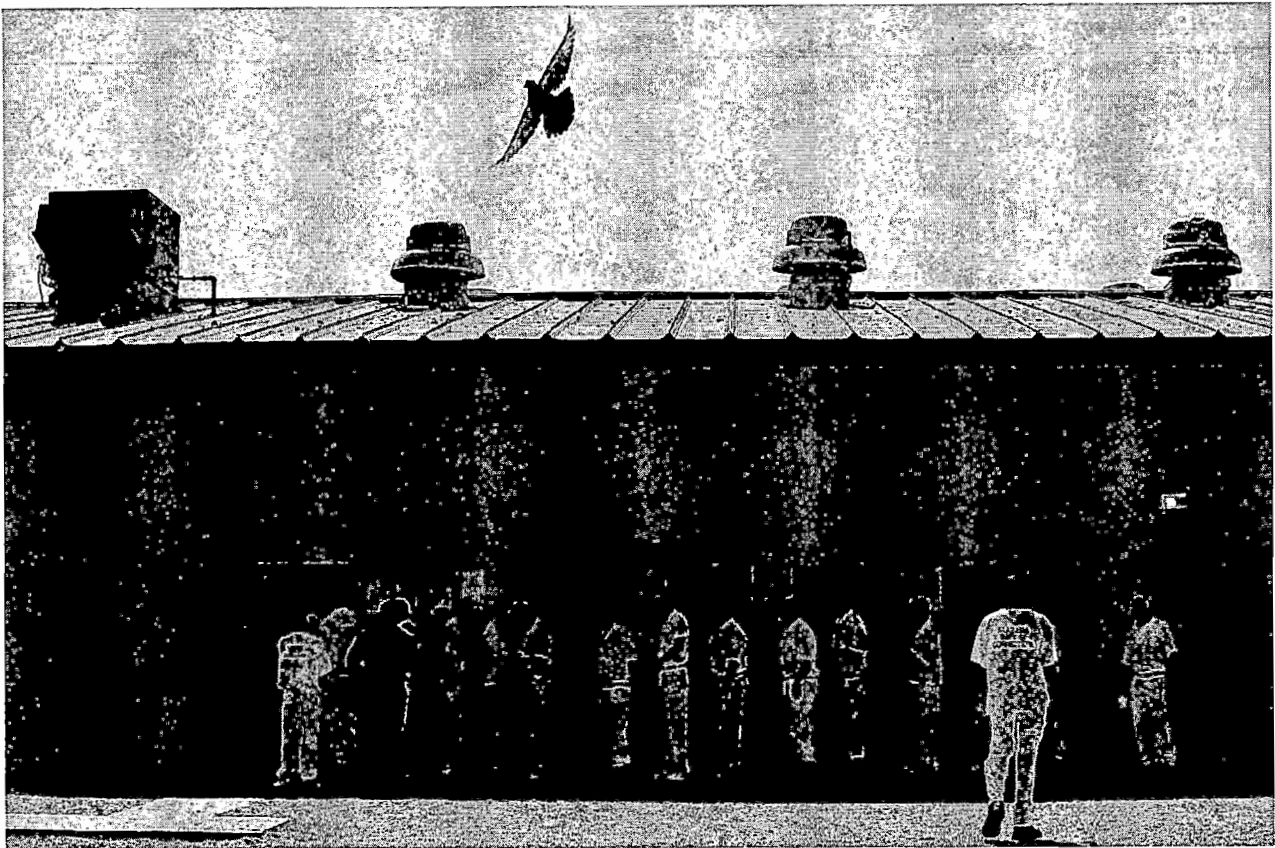
Alabama officials believe that building prisons is the way to finally solve the state's crisis. Both parties agree new facilities are sorely needed, but criminal justice reformers say that Alabama cannot build its way out of systemic issues that have festered for decades and grown far worse in recent years. State leadership, they say, has actively opposed comprehensive criminal justice changes.

"You build more prisons, you fill them," said Carla Crowder, executive director of Alabama Appleseed Center for Law and Justice, a legal nonprofit. "Alabama is too poor to properly staff, manage and run a prison system of the size that's been created by our laws. We just don't have enough money to lock up everybody we want to lock up and follow the Constitution. The last 50 years of human rights failures and expensive litigation has only reinforced this fact."

Ivey's office did not respond to multiple requests for comment. The Alabama Department of Corrections and Board of Pardons and Paroles also did not respond.

Justice Department investigators paint a dark portrait of life in Alabama prisons. In just one week: A prisoner awoken by two men beating him with a sock filled with metal locks. Another stabbed the same day by prisoners with makeshift weapons. A correctional officer threatened by a prisoner with a 7-inch knife. A prisoner's bed lit on fire as he slept. A sexual assault inside a segregation cell. One inmate dead after overdosing on synthetic cannabinoid.

"The problems really come down to poor management at the Department of Corrections," said Dillon Nettles, policy and advocacy director at the American Civil Liberties Union of Alabama. "But if I had to nail it to a specific group, it would really be our state lawmakers who have neglected this for so long. We've known that our prisons have been in crisis for some time. We didn't just get here."



prisoners stand in a crowded lunch line during a prison tour at Elmore Correctional Facility in Elmore, Ala. on June 18, 2015. | Brynn Anderson/AP Photo

A slow-moving threat from the feds

It was around 2012 when Joyce Vance, then the U.S. attorney based in Birmingham, had been reading news reports about the rise of killings inside Alabama prisons. What she saw alarmed her — so much so she brought her observations to higher ups inside the Department of Justice and they eventually signed off on a civil rights investigation that led to the system-wide lawsuit that now threatens to strip the state of the authority to run its own prisons.

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"I started digging around and realized it wasn't just one or two incidents, it was a systemic problem with violence in Alabama's system," Vance, an appointee of former President Barack Obama, said in an interview.

That violence was and still is driven, primarily, by one thing: There are far too many inmates and far too few corrections officers. In 2018, Alabama's prisons employed just 1,072 corrections officers even though the state had authorized the hiring of more than 3,400. Three prisons had fewer than 20 percent of the authorized correctional officers.

The Alabama Department of Corrections has said in public statements that it's taken steps to resolve some of the cultural and infrastructure challenges facing the system, a strategy outlined in a 2019 plan. Ivey that year also signed a law granting pay raises and bonuses to officers to try to attract and retain more employees.

The corrections department has also been acting under pressure from a separate federal court order directing the state to hire more corrections officers in a case over alleged inadequate mental health care in prisons. But as of the first quarter of 2021, the department had filled only 1,365 of the 3,135 authorized correctional officer positions, a vacancy rate of 56 percent, DOJ said in a court filing.

Vance has grown frustrated with the pace of the federal government's case, noting that it's been a year since the lawsuit was filed. Meanwhile, those living in the state's prisons are at constant risk of violence and death. So far in 2021, 10 people have been killed in the state's facilities, according to Beth Shelburne, an investigative reporter for the ACLU who tracks deaths in prisons. There have

been 13 drug-related deaths and six people have died by suicide, according to her research.

The Justice Department last month filed an updated complaint in its lawsuit, detailing more specific acts of violence inside the prisons. Today, the prisons remain “extremley overcrowded,” “critically and dangerously understaffed” and violence and sexual abuse is “still widespread.”

DOJ attorneys said that state officials have “failed or refused to eliminate the unconstitutional conditions” despite being aware of the investigation since 2016.

While the DOJ’s next move is unknown, it is obvious that the department doesn’t view construction alone as an acceptable solution.

“We want to see a resolution of all the violations we identified,” a DOJ official said in an interview, speaking on condition of anonymity to freely discuss the case. “We could certainly consider what impact new facilities would have on that, but we would just note that it's not exclusively a bricks and mortar problem.”

Ward knows all too well how conditions inside Alabama’s prisons have grown more dire. A few years into his life sentence — he and a co-defendant were convicted of murdering a woman during a robbery in 1991 — he earned a paralegal degree so he could represent himself in challenging the circumstantial evidence that led a jury to convict him. But when he ran out of appeals, he said, he felt extreme hopelessness and decided to escape in a 2005 jailbreak.

He was eventually captured after living on the run for about a month. His punishment was more than three years in solitary confinement.

On the day Ward was released from solitary, he remembers walking onto the "big yard" and witnessing a completely different scene from what he had experienced in prison up to that point: About 50 gang members meeting out in the open. There were too few correctional officers, he said, to do anything about it.

"The things I've seen are just unbelievable," Ward said in an interview. "This is at times a very disrespectful environment. It takes a cool head to get through some of the situations you face on a daily basis here."



A fence stands at Elmore Correctional Facility in Elmore, Ala. on June 18, 2015. | Brynn Anderson/AP Photo

A short lived shift in thinking

Alabama has tangled with the court system over its prison conditions for decades. In the 1970s, a judge put the state's Department of Corrections under supervision after finding that the prisons were insect-infested, crumbling, violent and "wholly unfit for human habitation."

The state's solution then? Build more prisons.

Alabama was swept up in the American movement toward mass incarceration and constructed five new men's prisons in the 1980s. They were quickly filled. Long sentencing laws passed during the nation's "tough on crime" era ballooned prison populations in Alabama and across the country. The rate of incarceration increased 222 percent in America's state prisons between 1980 and 2010.

Like most states, Alabama enacted a "three strikes law" aimed at repeat offenders. But its version was the strictest in the nation: The law mandated a life sentence without the possibility of parole for anyone convicted of a Class A felony, such as robbery or burglary, if they had any three prior felonies on their record.

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“When you look at people who commit violent crimes, it is absolutely necessary they be separated from society,” said state House Rep. Jim Hill, a Republican who has sponsored sentencing reform bills considered by the state Legislature. “We have a duty for public safety, and unfortunately that’s just part of it.”

While Alabama sent more and more people to prison, it didn’t spend the money to safely house them. A crisis was looming.

By the early 2010s, state officials knew they had to do something, according to interviews. The Department of Corrections was drawing more money from the state’s General Fund, which is also used to pay for economic development and health care, to try to combat the violence and repair decrepit facilities, even as conditions were getting worse.

In 2014, then-Gov. Robert Bentley invited the Council of State Governments, a nonpartisan group that advises local governments, to evaluate the system and give recommendations for improvement. With the backing of state Sen. Cam Ward, a Republican who had taken on criminal justice reform as his signature issue, the state Legislature passed a package of bills to decrease the prison population by creating lighter sentences for low-level drug and property crimes.

Criminal justice reform advocates were becoming hopeful that more change would follow. It felt like a turning point.

Those reform bills, along with other measures from two years prior, marked “a gigantic seismic shift towards more fair treatment of offenders across the state,” said Bennet Wright, executive director of the Alabama Sentencing Commission. The prison population began to decline, dropping by about 6,000 people over a period of six years.

There was also a shift happening at the parole board as its members started implementing risk-based assessments and began to consider factors such as their age and support systems when considering whether to grant releases.

The board underwent training offered by the Department of Justice. Former board chair Lyn Head, a former prosecutor for nearly two decades, called it pivotal in “changing her philosophy” on the criminal justice system and said she learned for the first time how parole boards could use data to analyze an individual’s risk of re-offending.

The results were immediate. Alabama’s parole grant rate between 2013 and 2018 increased from 30 percent to 53 percent.

But all that changed in mid-2018, when a man out on parole, Jimmy Spencer, was accused of brutally killing three people in a robbery, including a 7-year-old boy. He was just out of prison after being incarcerated for an earlier robbery. Republicans were outraged that he was released despite being in prison for a violent crime.



Alabama Gov. Kay Ivey speaks during a news conference on July 29, 2020. | Kim Chandler/AP Photo

Ivey had just become governor after Bentley resigned in a sex scandal. She brought in Head, then the chair of the parole board, for what Head called the "smack-down" meeting.

Head said in an interview that she repeatedly tried to explain the risk-based assessment to Ivey, who appeared to be growing impatient. "After the third time, [Ivey] banged her fist on the desk and said, 'Don't you think they need to pay a price?'" Head said.

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"I said, 'No ma'am, I personally believe that price was paid.' She literally rolled her eyes at me and grunted."

The legislature soon after gave the governor the ability to appoint parole board members. Ivey put in place Charles Graddick as executive director, a former state attorney general and circuit county judge. He was a proponent of the electric chair and promised in a 1978 campaign to "fry 'em 'til their eyes pop out and blue and yellow smoke pours their ears."

Graddick paused parole considerations for several months, and when they resumed, the board's release rate started the rapid decline that continues today.

In fiscal year 2017, 54 percent of parole requests were granted, according to information provided by the board. That was a remarkably high rate for the

state. By the fiscal year that ended in June, the approval rate dropped to just 15 percent. So far in fiscal year 2022, the rate is at 10 percent.

There is a huge racial disparity in who gets parole. Last fiscal year, 23 percent of white inmates considered for parole were released but only 9 percent of Black inmates.

Today, the parole board is led by Leigh Gwathney, a former prosecutor who used to work for the state attorney general. Other members include a former probation officer and a state trooper. Democrats in the legislature have called for Gwathney's resignation.

"It's so frustrating because, I get that we want to protect the public, I get that prison is punitive, but also it should be reformatory and rehabilitative or we wouldn't call it the Department of Corrections," said Aimee Cobb Smith, an attorney who represents incarcerated clients before the board. "That's kind of the whole point."

Inside the parole board room

The Alabama parole board is located in an nondescript office building right off a highway in Montgomery. Three days a week, the board hears around 40 parole and pardon applications, methodically chipping away at the huge backlog of petitions.

The process is orderly. Families of victims gather in a waiting room while a volunteer with a victim's rights group passes around brochures, answers questions, leads a prayer and repeatedly reminds them that they can ask the board to grant the maximum five year offset before the offender is allowed to be considered for parole again.

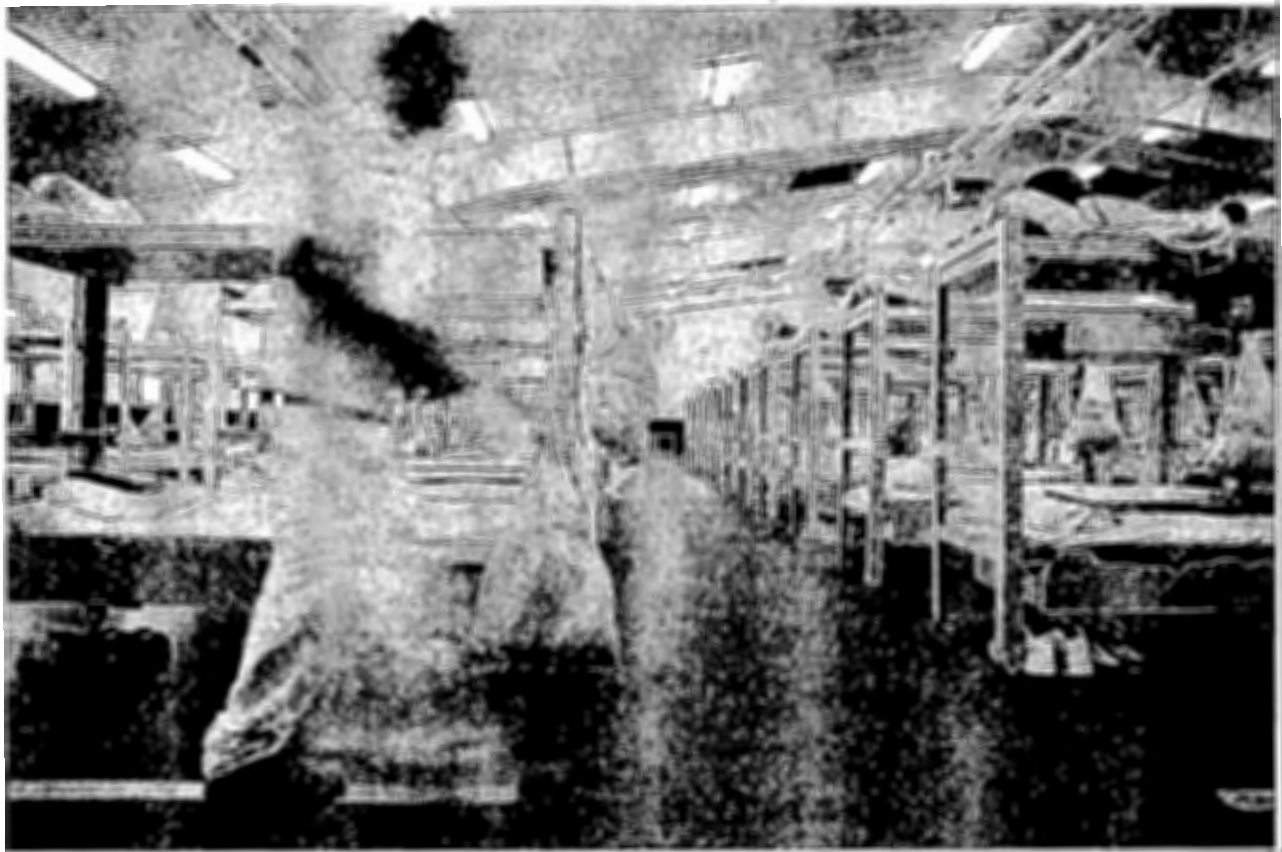
Down the hallway, families of offenders also wait anxiously as they watch a screen for their case to be called. When it's time, both groups silently file into

sides. Parole board staff hand out tissues. Many people cry. While the facts of each case differ, the testimony is similar: Families of offenders urge the board to release them, citing things such as good behavior, strong support systems, remorse for their alleged crimes. Families of victims share their own pain, urging the board to keep offenders incarcerated, a decision they say honors the lives of loved ones murdered or assaulted.

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Victims of Crime and Leniency, an influential victims group known as VOCAL, sends volunteers to testify against nearly every person up for parole. A representative from the state Attorney General's Office does the same.

Only four of the 31 applicants got parole that day in late September, the same week state lawmakers were meeting to approve construction of more prisons. Just 29 people — representing 8 percent of applicants — got parole that month, according to documents.



A prisoner walks near his crowded living area in Elmore Correctional Facility in Elmore, Ala. on June 18, 2015. | Brynn Anderson/AP Photo

When parole boards make decisions without transparency, and grant rates plummet, they can spur more violence inside prisons if inmates don't have any incentive for good behavior, said Jorge Renaud, a former senior policy analyst at the Prison Policy Initiative who spent decades incarcerated in Texas prisons.

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"You have to have a sense that there is something that allows you to buy into the idea that indeed you must act like a civilized person in this place of despair," he said. "If the system is not giving you that, then you can't build enough prisons."

The parole board's changing grant rate is like a pendulum that "swings back and forth," said Cam Ward, the former senator who pushed criminal justice reform. The Republican became executive director of the Alabama Bureau of Pardons and Parole last year, after Graddick stepped down. He said that phenomenon is unfair.

"So you went from one point where people were being released who probably shouldn't have been," he said. "All the way to no one gets released and some should have been. That's where we are with the board right now."

Even though he serves as executive director of the agency, Cam Ward maintains that he has no legal authority over the board's decisions, which frustrates attorneys with incarcerated clients and criminal justice advocates who view him as their best ally. His focus, instead, is on expanding reentry programs and improving rehabilitation of incarcerated individuals.

But those reentry programs require a steady amount of people getting out of prison in order to operate. Jack Hausen, founder of faith based reentry facility Shepherd's Fold, said the parole drop threatens the future of his program, which has just 30 participants despite capacity for 100.

"Until they release people to me, I can't really do it," said Hausen, whose group provides meals, transportation to jobs and drug counseling. "There could be a point in time where we have to close our doors because we don't have the financial ability to cover our costs."

'It will be our fault'

When Alabama lawmakers gathered in Montgomery in late September for the special session, they demonstrated more energy to tackle the corrections crisis than before the pandemic.

For weeks, the governor had been negotiating with Republican leadership to build two massive prisons that would house about 4,000 inmates each and eventually construct a new women's prison. The state would also shutter five facilities and convert an empty building into a reentry center offering mental health treatment, job training and substance abuse counseling for people who violate parole conditions.

It was important for Ivey to get this done. In June, her plan to lease three new facilities from private prison companies failed, quite publicly, under pressure from grassroots critics.

Ivey personally lobbied Republicans. By the time the House gaveled in at the beginning of the week, leaders were confident they had the support to pass the construction bills. What was uncertain, however, was the fate of sentencing reform and oversight measures that Democrats and some Republicans hoped would get attached to the prison package.

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“This is a win-win-win situation for the people of Alabama,” said Republican Rep. Steve Clouse, the sponsor of the construction bills, while speaking on the House floor. He cited savings from the financing structure for the prisons and how it would get the state in compliance with the Department of Justice. And, he added, “the biggest win of all is going to be the public safety win ... so that we can protect the public from violent criminals.”

The proposal included a political landmine: \$400 million in funding for the prisons would come from federal pandemic relief dollars.

One Democratic strategist predicted that it “would go over like a turd in a punch bowl.” Most Alabamians would rather direct that money to other pressing needs like saving dozens of rural hospitals on the brink of collapse, the strategist said.



Rep. Jerry Nadler speaks during a House committee meeting. | Erin Scott/Pool via AP Photo

Word of Republicans' intentions soon made its way to Washington. Halfway through the five-day session, House Judiciary Chair Jerry Nadler issued a statement condemning the use of the funds and called for the Treasury Department to block it.

Ivey, in response, accused Nadler and the "Democrat-controlled federal government" of trying to "overstep our Alabama-driven plan."

"While our prison infrastructure is broken, our ability to govern is not. Same can't be said for D.C.," Ivey said in a statement at the time.

The prison construction legislation passed overwhelmingly, including votes from most Democrats. That bipartisan support speaks to the unusual politics of prisons in Alabama: You'll find plenty of Democrats who want to build more prisons and, at the same time, some Republicans want to pass reform measures and reduce the prison population.

Lawmakers then turned to the handful of sentencing reforms and oversight measures. But Republicans got spooked by the sudden national attention on the special session, lobbyists said in interviews. They were also angered by a five-hour filibuster from Democrats ahead of the construction vote. A bipartisan handshake deal to pass the bills quickly fell apart.

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Immediately after the construction bills passed, the House abruptly recessed for party caucuses to meet, with lawmakers eager to return home in time for the hyped Alabama college football game against rival Mississippi.

In the Republican caucus meeting room, it became clear that GOP senators didn't want to vote on a bill that would have allowed some nonviolent offenders to apply for new sentences under 2013 reform guidelines, people familiar with the discussions said. It would have applied to just 700 prisoners.

The Alabama District Attorneys Association had been whipping against the measure, according to several lawmakers and lobbyists. It reinforced the universal fear among Republicans that supporting any criminal justice reform, however incremental, would cast them as "soft on crime" and guarantee a primary challenge.

In the end, the legislature passed a single reform bill dealing with supervision of inmates out on parole.

"Every issue that's been identified, every one of them, will still exist in 2025 when these first two prisons are completed," state Rep. Chris England, the chair of the Alabama Democratic Party, said in a floor speech. "They will still exist. They will still be overcrowded. They will still be understaffed. They will still be under-resourced. And if our current commissioner is still working there, it will still be mismanaged."

"Our system is in a current humanitarian crisis. And every question cannot be answered with new prisons," he said. "The buildings will not do anything with the culture of corruption in our prisons."

The Fifty





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Republicans widely celebrated the approval of new prisons, declaring it the first step toward resolving the DOJ lawsuit. Hill, the House Republican behind the reform bills, said that it shows the federal government Alabama is making a “good faith effort” to address overcrowding and staffing challenges.

“The things that we can do are not done overnight,” Hill said. “Unfortunately, it has taken us many years to get into the situation that we now find ourselves. It’s going to take years to get out of.”

But some Republicans still had lingering doubts.

“The thing is, we got a federal lawsuit hanging over our head,” said a Republican state lawmaker who was granted anonymity to talk candidly. “And, quite frankly, they should have dropped the hammer a long time ago. Our prisons are in horrible shape, we stubbornly dragged our feet, and I’m really at the point that, when they do it, I’m just going to laugh my ass off.”

“We’re the ones with the supermajority and the votes, and we’re the ones responsible for governing,” he said. “When the feds take over, it’s our fault. It will be our fault. We can’t blame nobody else but us.”

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